

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.541 of 2023

Arising Out of PS. Case No.- Year-0 Thana- District- Begusarai

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Pankaj Kumar @ Pankaj Kumar Gupta Son Of Ganesh Prasad @ Ganesh Prasad Gupta Resident Of Village - Nonpur, Asha Niwas Post Nonpur Fardi, P.S. - Teghra, District - Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manisha Kumari Wife Of Pankaj Kumar @ Pankaj Kumar Gupta, Daughter Of Surendra Prasad Gupta Resident Of Village - Shokhara, Ward No.09, Kalambag, Choudhary Tola, P.S. - Phulwariya, District - Begusarai
3. Shivansh Raj @ Aryan Son Of Pankaj Kumar @ Pankaj Kumar Gupta Resident Of Village - Nonpur, Asha Niwas Post Nonpur Fardi, P.S. - Teghra, District - Begusarai

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sandip Kumar Gautam, Adv.
For the O.P.	:	Mr. Bipin Kumar, Adv.
For the State	:	Mr. Sunil Kumar Pandey, A.P.P

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

9 10-04-2025 In the instant criminal revision the husband/petitioner has challenged the quantum of maintenance directed to be paid by the petitioner in favour of the opposite parties, in Maintenance Case No. 55 of 2021, by the Principal Judge, Family Court, Begusarai @ Rs. 4,000/- (Four thousand) per month in favour of opposite party no. 1 and Rs. 3,000/- (Three thousand) per month in favour of opposite party no. 2, who is a minor child of the parties, towards maintenance allowance.

2. It is not in dispute that the petitioner is the husband



of opposite party no. 1 and father of opposite party no. 2. It is also not in dispute that opposite party nos. 1 and 2 are living separately. Thirdly, no case is made out by the petitioner that the opposite parties have independent source of income. Therefore, the petitioner is under obligation to maintain his wife and minor child. The petitioner has challenged quantum of maintenance on the ground that the learned court below committed an apparent error in holding that the petitioner works as an Amin in his private capacity and earns Rs. 40,000/- per month. Apart from the said earning, he has agricultural income, at least of Rs. 2,50,000/- to Rs. 3,00,000/- per year. The petitioner in his written statement as well as in course of his evidence, as the opposite party in the trial court, denied the said allegation. It is the specific case of the opposite party that he is unemployed and he does not have any income from his agricultural land.

3. Learned Advocate on behalf of the petitioner also submits that the petitioner was directed to pay monthly monetary allowance in a proceeding under the Protection of Women from Domestic Violence Act @ Rs. 3,000/- per month and he has been going on paying the said amount regularly. The trial court did not consider or give adjustment of the said amount from the maintenance allowance.



4. During pendency of the instant revision, the petitioner has filed supplementary affidavit stating, inter alia, that the father of the petitioner possesses approximately about 2 Bighas and 8 Kathas of land as his ancestral property. Except the said land, the father of the petitioner or the petitioner himself does not have any other cultivable land.

5. During trial of the case, besides the oral evidence, the opposite parties failed to produce any independent witness to show that the petitioner works as Amin in private capacity. The petitioner has denied such suggestions. Therefore, the allegation that the petitioner earns Rs. 40,000/- per months as Amin cannot be held to be proved.

6. Learned Advocate on behalf of the opposite parties refers to the reply against the supplementary affidavit filed by the petitioner. In the said reply, he takes me to a copy of the Jamabandi in the name of the paternal grandfather of the petitioner, in respect of the certain land.

7. It is submitted by the learned Advocate for the opposite parties that the petitioner is governed by Mitakshara School of Law and there is 1 Bigha and 7 Dhurs of land in his share.

8. If the contention made by the learned Advocate on



behalf of the opposite parties is accepted, this Court can take into account that from the said amount of land, agricultural income of the petitioner would not be more than Rs. 20,000/- per annum.

9. In view of such circumstances, it is submitted by the learned Advocate on behalf of the petitioner that he has no sufficient means to pay Rs. 7,000/- per months towards maintenance.

10. It is not in dispute that the petitioner is an able bodied person and he is under legal and moral obligation to maintain his wife and the child.

11. Considering present the market price and the bare minimum of requirement of the opposite parties, this Court is of the view that the opposite party no. 1 is entitled to get maintenance @ Rs. 3,000/- (Three thousand) per month. The opposite party no. 2, being the minor child of the parties, is also entitled to get maintenance @ Rs. 3,000/- (Three thousand) per month. Therefore, the quantum of maintenance is modified, directing the petitioner to pay maintenance allowance @ Rs. 6,000/- (Six Thousand) per month from the date of filing of the application.

12. Since, the opposite parties is getting Rs. 3,000/-



per month towards monetary allowance in a proceeding under the Protection of Women from Domestic Violence Act, the said amount shall be adjusted against the maintenance allowance directed to be paid by this Court.

13. With the above modification, the instant Criminal Revision is disposed of.

(Bibek Chaudhuri, J)

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